

No.

CR 05 00039 JF

HRL

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

THE UNITED STATES OF AMERICA

vs.

DAVID HUNG TROUNG

INDICTMENT

Counts One through Six: 18 U.S.C. Section 1343 - Wire Fraud;

Forfeiture Allegation: 18 U.S.C. Section 981(a)(1)(C) and 28 U.S.C. Section 2461(c) - Criminal Forfeiture.

A true bill.

Diare E McKee

Foreperson

Filed in open court this 19 day of January
A.D. 2005

United States Magistrate Judge

Bail. \$ No process

1 KEVIN V. RYAN (CSBN 118321)
2 United States Attorney

FILED
JAN 19 2005
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 CR 05 00039
12 No.

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 DAVID HUNG TROUNG,
16 a/k/a Hung Tony Nguyen,
17 a/k/a Hung Van Truong,
18 a/k/a/ Danh Tony Truong, and
19 a/k/a Tony Truong,

20 Defendant.

VIOLATIONS: 18 U.S.C. § 1343 - Wire
Fraud; and 18 U.S.C. § 981(a)(1)(C) and 28
U.S.C. § 2461(c) - Criminal Forfeiture

SAN JOSE VENUE

21 INDICTMENT

22 The Grand Jury charges:

23 BACKGROUND

24 At all times relevant to this indictment:

25 1. eBay was an Internet auction Web site on which users bought and sold many items,
26 including automobiles. The site acted as a venue for sellers to list items for auction and for
27 buyers to bid on these items. Any electronic bids made on eBay during an auction were routed
28 through eBay's computer servers in San Jose, California.

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TRUONG INDICTMENT

IF
HRL

1 2. Prior to buying or selling on the site, users were required to register with eBay by
2 providing a name, email address, telephone number and, in the case of sellers, a credit card
3 number. (eBay charged sellers a percentage of final sales.) As part of the registration process,
4 eBay also permitted a user to select a "User ID", which identified him or her to other eBay users
5 during auctions.

6 3. The defendant was part of a scheme that used at least the following eBay User IDs to host
7 auctions: "finestcar2000" and "acura-r-us."

8 4. The defendant controlled the following bank accounts:

9 a. Wells Fargo Bank Account No. 3495356093.

10 b. Washington Mutual Bank Account No. 0934295024.

11 COUNTS ONE THROUGH SIX: (18 U.S.C. § 1343 - Wire Fraud)

12 5. The allegations in paragraphs 1-4 are realleged and incorporated herein as if set forth in
13 full.

14 SCHEME TO DEFRAUD

15 6. Between on or about October 28, 2003 and January 18, 2004, in the Northern District of
16 California, and elsewhere, defendant,

17 DAVID HUNG TRUONG,

18 did knowingly devise and intend to devise, and participated in, a scheme and artifice to defraud
19 eBay users by repeatedly hosting auctions for certain automobiles, accepting payment for the
20 automobiles, then failing to deliver the auctioned items as promised.

21 7. It was part of the scheme and artifice to defraud that automobiles were listed for auction
22 using eBay User IDs "finestcar2000" and "acura-r-us." As a result of these auctions, the winning
23 eBay bidder or another eBay user learning of the automobile from the eBay auction
24 electronically sent a winning bid for the automobile to eBay or contacted defendant to purchase
25 the automobile outside the auction process.

26 8. It was further part of the scheme and artifice to defraud that defendant caused the eBay
27 users to wire or send a payment for the automobiles listed for auction, which was deposited into
28 the defendant's Washington Mutual Bank and Wells Fargo Bank accounts. Defendant had no

intention of delivering the auctioned automobiles to eBay users. As part of the scheme, the defendant failed to deliver the auctioned items as promised and kept the payments from the buyers.

9. As part of this scheme and artifice to defraud, at least the following automobiles were listed for auction by the User IDs "finestcar2000" and "acura-r-us" on eBay: (1) a 2001 Honda Accord, (2) a 2001 Mercedes Benz E320, (3) two 2001 Toyota 4-Runners, (4) a 2000 Acura 3.2 TL, and (5) a 2000 Acura 3.5 RL. As a result of this scheme and artifice to defraud, the defendant fraudulently received about \$40,000 from eBay users for his personal gain.

THE USE OF THE WIRES

10. On or about the dates listed below, in the Northern District of California and elsewhere, for the purpose of executing the aforementioned scheme and artifice to defraud and attempting to do so, the defendant,

DAVID HUNG TRUONG,

as more specifically set forth below, did knowingly transmit and cause to be transmitted in interstate and foreign commerce, by means of a wire communication, certain signs and signals, as described below:

COUNT	DATE	SENDER	RECIPIENT	WIRE	AUCTION
1	10/28/03	eBay user in Utah	eBay server in San Jose, California	Electronic bid of \$11,400 for auction hosted by User ID "finestcars2000"	2001 Honda Accord
2	10/29/03	eBay user in New York	eBay server in San Jose, California	Electronic bid of \$23,000 for auction hosted by User ID "finestcars2000"	2001 Mercedes Benz E320
3	1/16/04	eBay user in Illinois	eBay server in San Jose, California	Electronic bid of \$15,605 for auction hosted by User ID "acura-r-us"	2001 Toyota 4Runner

4	1/17/04	eBay user in North Carolina	eBay server in San Jose, California	Electronic bid of \$14,711 for auction hosted by User ID "acura-r-us"	2001 Toyota 4Runner SR5
5	1/17/04	eBay user in Arizona	eBay server in San Jose, California	Electronic bid of \$15,301 for auction hosted by User ID "acura-r-us"	2000 Acura 3.2 TL
6	1/18/04	eBay user in Illinois	eBay server in San Jose, California,	Electronic bid of \$15,000 for auction hosted by User ID "acura-r-us"	2000 Acura 3.5 RL

All in violation of Title 18, United States Code, Section 1343.

FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) - Criminal Forfeiture)

11. The allegations contained in paragraphs 1-10 of this Indictment are hereby realleged and by this reference fully incorporated herein for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. 2461(c).

12. Upon conviction of the offenses alleged in Counts One-Six, the defendant,
DAVID HUNG TRUONG,
shall forfeit to the United States all property, constituting and derived from proceeds traceable to said offenses.

If any of said property, as a result of any act or omission of the defendant-

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

any and all interest defendants have in other property shall be vested in the United States and

1 forfeited to the United States pursuant to Title 21, United States Code, Section 853(p), as
2 incorporated by Title 28, United States Code, Section 2461(c).

3
4 DATED:

A TRUE BILL

5 *Diane E. McKee*
6 GRAND JURY FOREPERSON
7

8 KEVIN V. RYAN
9 United States Attorney

10 *Matthew A. Parrella*
11 MATTHEW A. PARRELLA
12 Chief, San Jose Branch Office

13 (Approved as to form: *[Signature]*)
14 AUSA KEWALRAMANI

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING

OFFENSE CHARGED

18 U.S.C. Section 1343 -- Wire Fraud;

18 U.S.C. Section 981 (a)(1)(C), 28 U.S.C.
 Section 2461 (c) - Criminal Forfeiture

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY:

Maximum 20 years imprisonment;
 Maximum \$250,000.00 fine;
 3 years supervised release;
 \$100 special assessment

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FBI Special Agent - Christopher Langert

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. Att'y ☐ Defense

SHOW
DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE
CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person
 Furnishing Information on
 THIS FORM

KEVIN V. RYAN

☒ U.S. Att'y ☐ Other U.S. Agency

Name of Asst. U.S. Att'y
 (if assigned)

H.H. (SHASHI) KEWALRAMANI

Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

DAVID HUNG TRUONG

DISTRICT COURT NUMBER

CR 05 00039

DEFENDANT

IS NOT IN CUSTODY

1) ☒ Has not been arrested, pending outcome this proceeding.
 If not detained give date any prior summons was served on above charges

2) ☐ Is a Fugitive

3) ☐ Is on Bail or Release from (show District)

Northern District of California

IS IN CUSTODY

4) ☐ On this charge

5) ☐ On another conviction

6) ☐ Awaiting trial on other charges

☐ Fed'l ☐ State

If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☒ No

If "Yes" give date filed

DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

Month/Day/Year

DATE TRANSFERRED
TO U.S. CUSTODY

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

☐ SUMMONS ☒ NO PROCESS*

☐ WARRANT Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address: _____

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____

Before Judge: _____

Comments: _____